



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 56] नई दिल्ली, शुक्रवार, दिसंबर 15, 2000 / अग्रहायण 24, 1922
No. 56] NEW DELHI, FRIDAY, DECEMBER 15, 2000 / AGRAHAYANA 24, 1922

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha dated 15th December, 2000.

BILL NO. 211 OF 2000

A Bill further to amend the National Bank for Agriculture and Rural Development Act, 1981.

Be it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the National Bank for Agriculture and Rural Development (Amendment) Act, 2000.

Short title and
commence-
ment

(2) Save as otherwise provided in this Act, it shall come into force on such date as the Central Government may, by notification in Official Gazette, appoint.

61 of 1981.

2. In the National Bank for Agriculture and Rural Development Bank Act, 1981 (hereinafter referred to as the principal Act), for the long title, the following shall be substituted, namely:—

Amendment
of long title.

“An Act to establish a development bank to be known as the National Bank for Agriculture and Rural Development for providing and regulating credit and other facilities for the promotion and development of agriculture, small-scale industries, cottage and village industries, handicrafts and other rural crafts and other allied economic activities in rural areas with a view to promoting integrated rural development and securing prosperity of rural areas and for matters connected therewith or incidental thereto.”.

of section 2. 3. In section 2 of the principal Act, in clause (e), the words “of the Board” shall be omitted.

Amendment of section 4

4. In section 4 of the principal Act,—

(i) in sub-section (1), in the proviso, for the words “five hundred crores”, the words “five thousand crores” shall be substituted;

(ii) for sub-section (2), the following shall be substituted, namely:—

“(2) The capital of the National Bank shall be subscribed to by the Central Government and the Reserve Bank to such extent and in such proportion as may be notified by the Central Government in consultation with the Reserve Bank, from time to time:

Provided that the National Bank may issue capital to such institutions and persons in such manner as may be notified by the Central Government:

Provided further that the combined shareholding of the Central Government and the Reserve Bank shall not at any time be less than fifty-one per cent. of the total subscribed capital.”.

Amendment of section 6

5. In section 6 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) The Board of Directors of the National Bank shall consist of the following, namely:—

(a) a Chairman;

(b) three directors from amongst experts in rural economics, rural development, village and cottage industries, small-scale industries or persons having experience in the working of co-operative banks, regional rural banks or commercial banks or any other matter the special knowledge or professional experience in which is considered by the Central Government as useful to the National Bank;

(c) three directors from out of the directors of the Reserve Bank;

(d) three directors from amongst the officials of the Central Government;

(e) four directors from amongst the officials of the State Governments;

(f) such number of directors elected in the prescribed manner, by shareholders other than the Reserve Bank, the Central Government and other institutions owned or controlled by the Central Government whose names are entered on the register of shareholders of the National Bank ninety days before the date of the meeting in which such election takes place on the following basis, namely:—

(i) where the total amount of equity.....two directors; share capital issued to such shareholders is ten per cent. or less of the total issued equity capital

(ii) where the total amount of equity .. three directors;
share capital issued to such shareholders is and
more than ten per cent. but less than twenty-
five per cent. of the total issued equity capital

(iii) where the total equity share capital four directors:
issued to such shareholders is twenty-five
per cent. or more of the total issued equity
capital

Provided that until the assumption of charge by the elected directors under this clause, the Central Government may at any time nominate such number of directors not exceeding four from amongst persons having special knowledge of, and professional experience in, agricultural science, technology, economics, banking, co-operatives, law, rural finance, investment, accountancy, marketing or any other matter, the special knowledge of, and professional experience in, which would, in the opinion of the Central Government, be useful to the National Bank for carrying out its functions; and

(g) a Managing Director.

(2) The Chairman and other directors, excluding the directors referred to in clause (f), shall be appointed by the Central Government in consultation with the Reserve Bank:

Provided that no such consultation shall be necessary in the case of directors appointed under clause (d) of sub-section (1)."

6. In section 7 of the principal Act,—

Amendment of
section 7.

(i) in sub-section (1), the words "and shall be eligible for re-appointment" shall be added at the end;

(ii) after sub-section (1A), the following sub-section shall be inserted, namely:—

"(1B) In the case of a vacancy in the office of the Chairman, the Managing Director shall perform the functions and duties of the Chairman during such vacancy."

(iii) in sub-section (2), the words "and thereafter until his successor enters upon his office" shall be omitted;

(iv) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The Chairman and any other director, who is not an officer of the Central Government or a State Government or an officer of the Reserve Bank or any body or corporation established by or under any Central Act or any State Act and owned or controlled by such Government, shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or of any of its committees and for attending to any other work of the National Bank."

7. In section 8 of the principal Act, in sub-section (1), in clause (a), the words "and shall be eligible for re-appointment" shall be added at the end.

Amendment of
section 8.

8. In section 12 of the principal Act, in sub-section (2), after the words "unable to attend any meeting," the words "the Managing Director and in the absence of both, the Chairman and the Managing Director," shall be inserted.

Amendment of
section 12.

9. In section 14 of the principal Act, in sub-section (1), for the words "The Board shall", the words "The Board may" shall be substituted.

Amendment of
section 14.

Amendment of
section 19.

10. In section 19 of the principal Act,—

(i) for clause (a), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 26th day of September, 2000, namely:—

“(a) issue and sell bonds, debentures and other financial instruments with or without guarantee of the Central Government on such terms and conditions as may be approved by the Board;”;

(ii) for clauses (b) to (e), the following clauses shall be substituted, namely:—

“(b) borrow money from the Reserve Bank repayable on demand or otherwise on such terms and conditions including the terms relating to security and purposes as may be specified by the Reserve Bank;

(c) borrow money from the Central Government and from any other authority or organisation or institution approved by the Board, on such terms and conditions as may be agreed upon;

(d) accept from the Central Government, a State Government, a local authority, a State land development bank, a State co-operative bank or a scheduled bank or any person or body, whether incorporated or not, deposits repayable on such terms as the National Bank may, with the approval of the Reserve Bank, fix; and

(e) receive gifts, grants, donations or benefactions from the Central Government or any State Government or any other source.”.

Substitution
of new
section for
section 20.

11. For section 20 of the principal Act, the following section shall be substituted, namely:—

Borrowings in
foreign
currency.

“20. Notwithstanding anything contained in the Foreign Exchange Management Act, 1999, or in any other law for the time being in force, relating to foreign exchange, the National Bank may borrow, with the previous approval of the Central Government and in consultation with the Reserve Bank, foreign currency from any bank or financial institution in India or elsewhere, for granting loans and advances or for utilising such currency for any other purpose specified under the provisions of this Act.”.

42 of 1999.

Amendment of
section 25.

12. In section 25 of the principal Act, in sub-section (1), in clause (d), after the words “by way of refinance”, the words “or otherwise” shall be inserted.

Substitution of
new section
for section 26.

13. For section 26 of the principal Act, the following section shall be substituted, namely:—

Purchase and
sale of shares

“26. The National Bank may subscribe to or purchase or sell stocks, shares, bonds or debentures of, or invest in the securities of, any institution or class of institutions concerned with agriculture and rural development which the Board may approve subject to such terms and conditions as it may deem fit.”.

Insertion of
new section
27A.

14. After section 27 of the principal Act, the following section shall be inserted, namely:—

Loans to State
Government,
undertakings,
etc.

“27A. The National Bank may make loans and advances to any State Government or a corporation owned or controlled by the State Government or to any other person or class of persons, as may be approved by the Board, repayable on the expiry of a fixed period not exceeding twenty-five years from the date of making of such loans and advances and subject to such terms and conditions, as may be approved by the Board, for the purpose of development of infrastructure facilities for promotion of agriculture and rural development.”.

15. In section 28 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment of section 28.

“(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), no guarantee or security referred to therein shall be required in cases in which the Board, for reasons to be recorded in writing, decides that no such security or guarantee is necessary in respect of a scheduled bank, a State co-operative bank or any person or class of persons, specifically approved by the Board or in respect of any scheme or class of schemes, having regard to the nature and scope of the scheme or schemes for which accommodation is proposed to be granted by the National Bank.”.

16. In section 29 of the principal Act, after sub-section (2), the following shall be inserted, namely:—

Amendment of section 29.

“(3) Notwithstanding anything to the contrary contained in any law for the time being in force, where a liquidator is appointed for winding up a borrowing institution, it shall be the duty of the liquidator to forthwith pass on to the National Bank the sums recovered by the borrowing institution or the liquidator, as the case may be, in repayment or realisation of the loans and advances refinanced either wholly or partly by the National Bank to the extent the refinance is outstanding and the National Bank shall be entitled to enforce the securities held by the borrowing institution in trust for the National Bank as if every reference to the borrowing institution in any contract, security or other document obtained by borrowing institution is a reference to the National Bank and accordingly, the National Bank shall be entitled to recover the balance sums due under such loans and advances from the constituents of borrowing institution and any discharge given by the National Bank to such constituent shall be a valid discharge and the liquidator shall, on demand made by the National Bank, deliver to it all such contracts, securities and other documents, for due enforcement thereof by the National Bank.

Explanation.—For the purposes of this sub-section, the word “liquidator” shall include liquidator or a provisional liquidator or any person or authority entrusted with the duty of liquidating the borrowing institution.”.

17. For section 30 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 30.

“30. The National Bank may, in exceptional circumstances to be recorded in writing by the Board, by itself or in association with other financial institutions or scheduled banks, make loans and advances, otherwise than by way of refinance to any person or class of persons or body corporate, on such terms and conditions, including security and repayable within such period not exceeding twenty-five years, as the National Bank may deem fit.

Direct loans.

30A. The National Bank may rediscount bills of exchange and promissory notes made, drawn, accepted or endorsed by any company or body corporate concerned with agriculture and rural development presented by a scheduled bank, a State co-operative bank, State land development bank, regional rural bank or any other institution or class of institutions approved by the Board.”.

Bills rediscounting.

18. For section 32 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 32.

“32. The National Bank may guarantee, subject to such directions as may be issued by the Board, from time to time, deferred payments in connection with the purchase of capital goods or for any other purpose for giving effect to the provisions of this Act, due from any person or class of persons, whether incorporated or not.”.

Issue of guarantees.

Amendment of
section 33.

19. In section 33 of the principal Act, for the words “under this Chapter with a borrowing institution”, the words “under this Act with a borrower” shall be substituted.

Substitution of
new section
for section 34.

20. For section 34 of the principal Act, the following section shall be substituted, namely:—

Power to call
for repayment
before agreed
period.

“34. Notwithstanding anything to the contrary contained in any agreement or arrangement, the National Bank may by notice in writing, require any borrower or assisted person to whom it has granted any loan or other financial assistance including grants, to discharge forthwith in full, the loan or other financial assistance, including grants, as the case may be,—

(a) if it appears to the National Bank that false or misleading information in any material particulars was given in the application for the loan or other financial assistance; or

(b) if the borrower or the person has failed to comply with any of the terms of the contract or arrangement with the National Bank in the matter of loan or other financial assistance, including grants; or

(c) if there is a reasonable apprehension that the borrower is unable to pay its debts or that proceedings for liquidation may be commenced in respect thereof; or

(d) if for any reason it is necessary so to do, to protect the interests of the National Bank.”.

Amendment of
section 35.

21. In section 35 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The National Bank shall have free access to all such records of a borrower seeking to avail of any credit or other facilities from the National Bank under this Act and also to all such records of any person seeking to avail of any credit or other facilities from such borrower, perusal whereof may appear to the National Bank to be necessary in connection with the providing of finance or other assistance to such borrower or the refinancing of any loan or advance made to such person by the borrower.”.

Insertion of
new section
37A.

22. After section 37 of the principal Act, the following section shall be inserted, namely:—

Prohibited
business.

‘37A. (1) The National Bank shall not make any loans or advances under section 30 or make any grants under this Act to any person or body of persons of which any of the directors of the National Bank is a proprietor, partner, director, manager, agent, employee or guarantor or in which one or more directors of the National Bank together hold substantial interest:

Provided that this sub-section shall not apply to any borrower if any director of the National Bank—

(a) is nominated as director of the Board of such borrower by the Government or a Government company as defined in section 617 of the Companies Act, 1956 or by a corporation established by any other law;

1 of 1956

(b) is elected on the Board of such borrower by virtue of shares held in the borrower organisation by the Government, or a Government company as defined in section 617 of the Companies Act, 1956 or by a corporation established by any other law,

1 of 1956.

by reason only of such nomination or election, as the case may be.

1 of 1956.

Explanation.—For the purposes of this sub-section, “substantial interest”, in relation to a borrower, means the beneficial interest held by one or more of the directors of the National Bank or by any relative of such director as defined in clause (41) of section 2 of the Companies Act, 1956, whether singly or taken together, in the shares of the borrower, the aggregate amount paid-up on which either exceeds five lakhs of rupees or five per cent. of the paid-up share capital of the borrower, whichever is lesser.

(2) The provisions of sub-section (1)—

(a) shall not apply to any borrower, if the National Bank is satisfied that it is necessary in the public interest to enter into business with that borrower and entering into any kind of business with such borrower shall be in accordance with and subject to such conditions and limitations, as may be approved by the Board;

(b) shall not apply to any transaction relating to the business entered into prior to the commencement of the National Bank for Agriculture and Rural Development (Amendment) Act, 2000, and all such business and any transaction in relation thereto may be implemented or continued as if that Act had not come into force;

(c) shall apply only so long as the conditions precedent to such disability as set out in the said sub-section continue.’.

23. In section 38 of the principal Act,—

Amendment
of section 38

(a) in clause (iii), for the words “make grants”, the words “make loans or advances or grants” shall be substituted;

(b) after clause (iii), the following clauses shall be inserted, namely:—

“(iv) may provide technical, legal, financial, marketing and administrative assistance to any person engaged in agriculture and rural development activities;

(v) may provide consultancy services in the field of agriculture and rural development and other related matters in or outside India, on such terms and against such remuneration, as may be agreed upon;

(vi) may perform the functions entrusted to or required of the National Bank by any other law for the time being in force; and

(vii) do any other kind of business or undertake any other kind of activity which the Central Government or the Reserve Bank may authorise.”.

24. (1) After section 38 of the principal Act, the following sections shall be inserted, namely:—

Insertion of
new sections
38A to 38C.

“38A. The National Bank may, in consultation with the Reserve Bank, promote, form or manage or associate itself in promotion, formation or management of companies, subsidiaries, affiliates, societies, trusts or such other association of persons, as it may deem fit, for the purpose of carrying out its functions under this Act.

Promotion of
subsidiaries.

38B. Notwithstanding anything contained in this Act, the National Bank may—

Securitisation
of debt.

(a) create one or more trusts and transfer loans and advances granted by it, with or without the securities, to such trusts, for consideration;

(b) set aside loans or advances held by the National Bank and issue and sell securities based upon such loans or advances so set aside in the form of debt obligations, trust certificates of beneficial interest or other instruments, by whatever name called, and act as a trustee for the holders of such securities.

Exemption
from
compulsory
registration.

38C. Notwithstanding anything contained in sub-section (1) of section 17 of the Registration Act, 1908,—

16 of 1908

(a) any instrument in the form of debt obligations or trust certificate of beneficial interest or any other instrument, by whatsoever name called, issued by the National Bank or the trust created by it to securitise the loans granted by it and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property; or

(b) any transfer of such instruments referred to in clause (a), shall not require compulsory registration.”.

Substitution of
new section
for section 40.

25. For section 40 of the principal Act, the following section shall be substituted, namely:—

Deposits and
investments.

“40. (1) The National Bank may invest its funds in promissory notes, stocks or securities of the Central Government or keep the moneys deposited with the Reserve Bank or with any agency of the Reserve Bank or with a State co-operative bank or a scheduled bank.

(2) Notwithstanding anything contained in sub-section (1) or section 30A, the National Bank may, for beneficial investment of its surplus funds, rediscount bills of exchange or promissory notes arising out of *bona fide* trade and commercial transactions and also lend repayable at call or short notice to a scheduled bank or any financial institution approved by the Reserve Bank, or invest in certificates of deposit and other instruments or schemes as may be approved by the Board.”.

Amendment of
section 44.

26. In section 44 of the principal Act, in sub-section (2), for the words “making of grants”, the words “making of loans or advances or grants” shall be substituted.

Amendment of
section 45.

27. In section 45 of the principal Act, for the words “and such other Funds”, the words “and other Funds” shall be substituted.

Amendment of
section 47.

28. In section 47 of the principal Act, for clause (ii), the following clause shall be substituted, namely:—

“(ii) after the expiry of the said period of fifteen years, the Board shall, after making provision for the Fund referred to in clause (i), disburse or spend the balance of the surplus in such manner as may be approved by the Board.”.

Insertion of
new section
52A.

29. After section 52 of the principal Act, the following section shall be inserted, namely:—

Agreement
with National
Bank on
appointment
of directors to
prevail.

“52A. (1) Where any agreement entered into by the National Bank with a company or a body corporate while granting loans and advances, provides for the appointment by the National Bank of one or more directors of such company or body corporate, such provisions and any appointment of directors made in pursuance thereof shall be valid and effective, notwithstanding anything to the contrary contained in the Companies Act, 1956 or in any other law for the time being in force, or in the memorandum, articles of association or any other instrument relating to the company or body corporate, and any provision regarding share qualification, age-limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the National Bank in pursuance of the agreement as aforesaid.

1 of 1956.

(2) Any director appointed as aforesaid shall—

(a) hold office during the pleasure of the National Bank and may be removed or substituted by any person by order in writing of the National Bank;

(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.”.

30. In section 60 of the principal Act, in sub-section (2),—

Amendment
of section 60

(i) for clause (e), the following clause shall be substituted, namely:—

“(e) the manner of election of directors under clause (f) of sub-section (1) of section 6;”;

(ii) clauses (f) and (h) shall be omitted.

31. (1) The National Bank for Agriculture and Rural Development (Amendment) Ordinance, 2000 is hereby repealed.

Repeal and
saving.

Ord.
4 of 2000.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The National Bank for Agriculture and Rural Development was established in 1982 under the provisions of the National Bank for Agriculture and Rural Development Act, 1981. The authorised capital of the NABARD is rupees five hundred crores and its capital is to be subscribed by the Central Government and the Reserve Bank of India in equal proportions.

2. The National Bank for Agriculture and Rural Development is an apex development bank in the field of agriculture and rural development. Its main function is to provide refinance to various financing institutions, such as State co-operative banks, regional rural banks, land development banks and State commercial banks for promotion of agriculture, small-scale industries, cottage and village industries and allied activities in rural areas with a view to promoting integrated rural development and securing prosperity of rural areas.

3. While implementing the provisions of the National Bank for Agriculture and Rural Development Act, several bottlenecks and shortcomings have come to light. Hence with a view to removing them and providing functional autonomy and operational flexibility to the Bank as well as expanding its role and augmenting its resources to make it a strong self-reliant and more vibrant institution so as to effectively serve the agricultural and rural sector in consonance with the present policy of liberalisation and reforms, several amendments have been carried out in the Act, which, *inter alia*, include the following main provisions:—

(i) long title of the Act is proposed to be amended to highlight the nature and status of the National Bank for Agriculture and Rural Development as a development bank;

(ii) ceiling on the Bank's capital is proposed to be increased from rupees five hundred crores to rupees five thousand crores;

(iii) section 19 of the Act is proposed to be amended to empower the said Bank to issue bonds, debentures and other financial instruments with or without Government guarantee and to enable it to borrow long-term loans from the Reserve Bank of India and also to enable it to borrow long-term loans from any other authority or organization or institution approved by the Board instead of the Central Government;

(iv) section 20 of the Act is proposed to be amended to enable the Bank to lend foreign currency for the purposes of the Act;

(v) section 26 is proposed to be amended to empower the Bank's Board in place of the Central Government to deal in the shares or contribute to the share capital to any institution concerned with the agricultural and rural development, which the Reserve Bank of India approves, subject to such conditions, as may be specified by the Reserve Bank of India.

4. The Act is being amended with a view to giving more powers to the Board of the Bank in place of the Central Government so that its work may be transacted more smoothly and quickly.

5. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;

YASHWANT SINHA.

The 1st December, 2000.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 AND 274 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. 7/(42)/2000-AC(Vol. II), dated the 6th December, 2000 from Shri Yashwant Sinha, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the National Bank for Agriculture and Rural Development (Amendment) Bill, 2000 has recommended under articles 117(1) and 274 of the Constitution for introduction of the Bill in Lok Sabha and under article 117(3) of the Constitution for consideration of the Bill in Lok Sabha.

Notes on clauses

Clause 2 seeks to amend the long title of the Act so as to highlight the nature and status of the National Bank for Agriculture and Rural Development and its role in providing and regulating credit and other facilities with a view to promoting integrated rural development and securing prosperity of rural areas.

Clause 3 seeks to amend clause (e) of section 2 so as to reflect that the Chairman is not merely Chairman of the Board.

Clause 4 seeks to amend section 4 so as to increase the ceiling of capital of the NABARD from rupees five hundred crores to rupees five thousand crores. It seeks to provide that the capital of the NABARD can be subscribed by the Central Government and the Reserve Bank in such proportion and to such extent as may be notified by the Central Government in consultation with the Reserve Bank from time to time. It further seeks to provide that the NABARD may issue capital to such institutions and persons in such manner as may be notified by the Central Government subject to the condition that combined share holding of the Central Government and the Reserve Bank shall not at any time be less than fifty-one per cent. of the total subscribed capital.

Clause 5 seeks to substitute new sub-sections for sub-section (1) and (2) of section 6 so as to provide for increase in the number of directors representing the States from 'two' to 'four' and reducing the number of non-official directors from 'five' to 'three' and also to provide for the maximum four directors to be elected by the shareholders other than the Central Government, the Reserve Bank and other institutions owned and controlled by the Central Government.

Clause 6 seeks to amend section 7 so as to provide for eligibility for re-appointment of the Chairman and to empower the Managing Director to perform the functions and duties of the Chairman in case of vacancy in the office of the Chairman. It also seeks to bring the Reserve Bank's nominee director at par with other directors in respect of tenure and re-appointment. Sub-section (4) is being substituted which provide that the Chairman and other directors who are not official directors shall be paid fee and allowance for attending meetings of the Board or Committees or for attending to any other work of the NABARD.

Clause 7 seeks to amend section 8 so as to provide for re-appointment of the Managing Director and whole-time directors.

Clause 8 seeks to amend section 12 so as to empower the Managing Director to preside at the meeting of the Board when the Chairman is unable to attend any meeting.

Clause 9 seeks to amend sub-section (1) of section 14 so as to provide that it would be discretionary, not mandatory for the Board to constitute the Advisory Council.

Clause 10 seeks to amend section 19 so as to empower the NABARD to issue bonds, debentures and other financial instruments with or without Government guarantee subject to such terms and conditions as may be approved by the Board. It proposes to empower the NABARD to borrow long-term loan from the Reserve Bank and also from any other authority or organisation or institution approved by the Board apart from the Central Government. It further proposes to empower the National Bank to accept deposits from the Central Government, any State Government, local authority, State land development bank, State co-operative bank or a scheduled bank or any person or body on such terms and conditions as the NABARD may fix with the approval of the Reserve Bank.

Clause 11 seeks to substitute a new section for section 20 so as to enable the NABARD with the previous approval of the Central Government to borrow foreign currency for granting loans and advances or for utilising the same for any other purpose specified under the provisions of this Act.

Clause 12 of the Bill seeks to amend clause (d) of sub-section (1) of section 25 so as to empower the NABARD to provide short-term finance either by way of refinance or otherwise to the borrowers.

Clause 13 seeks to substitute a new section for section 26 so as to empower the NABARD to subscribe to or purchase or sell stocks, shares, bonds or debentures or invest in the securities of any other institution concerned with agriculture and rural development which the Board may approve.

Clause 14 seeks to insert a new section 27A to empower the NABARD to make loans and advances to any State Government or a corporation owned or controlled by the State or to any other person or class of persons as may be approved by the Board for the purpose of development of infrastructure facilities for promotion of agriculture and rural development.

Clause 15 seeks to substitute a new sub-section for sub-section (3) of section 28 so as to extend the Board's power of waiver of security not only with reference to nature and scope of the scheme but also with reference to the institutions or class of institutions.

Clause 16 seeks to insert a new sub-section (3) in section 29 so as to make it obligatory for the liquidator to pass on to the NABARD all sums recovered from the borrowers to the extent the refinance is outstanding and also to hand over to the NABARD all contracts, securities and other documents so that it can independently proceed against the ultimate borrowers.

Clause 17 seeks to substitute a new section for section 30 so as to empower the NABARD to make direct lending in exceptional circumstances to any person or body corporate on such terms and conditions as the NABARD may deem fit. This clause also proposes to insert a new section 30A which empowers the NABARD to rediscount bills of exchange and promissory notes made or endorsed by any company or body corporate concerned with agriculture and rural development and presented by a scheduled bank or a State co-operative bank or State land development bank or regional rural bank or any other institution or class of institutions approved by the Board.

Clause 18 seeks to substitute a new section for section 32 so as to empower the NABARD to issue guarantee subject to directions issued by the Board for deferred payments in connection with purchase of capital goods or for any other purpose for giving effect to the provisions of the Act.

Clause 19 seeks to amend section 33 so as to empower the NABARD to impose suitable conditions for protecting its interest while entering into any transactions under the Act instead of transactions made only under Chapter VI of the Act.

Clause 20 seeks to substitute a new section for section 34 so as to empower the NABARD to call for repayment of not only refinance but also direct loans before the agreed period.

Clause 21 seeks to amend sub-section (1) of section 35 so as to empower the NABARD to have free access to the records of borrowers not only in case of refinance but also in case of direct lending.

Clause 22 seeks to insert a new section 37A so as to prohibit the NABARD from making any direct loans or advances to any person or body of persons with which any of the directors of the NABARD is associated as proprietor, partner or manager or in any other similar capacity.

Clause 23 seeks to amend section 38 so as to empower the NABARD to grant loans and advances for promotion of research, including undertaking studies, surveys and also to undertake certain other functions such as providing technical, legal, financial, marketing and administrative assistance to any person engaged in the field of agriculture and rural development or to provide consultancy services in or outside India and also to perform such other functions as may be entrusted to it under any other law for the time being in force and do any other kind of business as may be authorised by the Central Government or the Reserve Bank.

Clause 24 seeks to insert new sections 38A, 38B and 38C with a view to empower the NABARD to promote or associate itself in the promotion of or formation of subsidiaries

and to securitise its debts and to exempt the documents relating to securitisation of debts from compulsory registration.

Clause 25 seeks to substitute a new section for section 40 so as to empower the NABARD to invest its surplus funds in promissory notes, stocks or securities or to keep the moneys deposited with the Reserve Bank or with any agency of the Reserve Bank or with a State co-operative bank or a scheduled bank. It further empowers the NABARD to invest its surplus funds in rediscounting of bills of exchange or promissory notes and also to lend repayable at call or short notice in a scheduled bank or any other financial institution approved by the Reserve Bank. It also seeks to empower the NABARD to invest in certificate of deposits and other instruments or schemes, as may be approved by the Board.

Clause 26 seeks to amend sub-section (2) of section 44 so as to empower the NABARD to make loans and advances besides grants, from the Research and Development Fund.

Clause 27 seeks to amend section 45 so as to empower the NABARD to establish funds of any nature as the Board may consider necessary.

Clause 28 seeks to amend section 47 so as to empower the Board to disburse or spend the balance of surplus in such a manner as may be approved by it.

Clause 29 seeks to insert a new section 52A so as to empower the NABARD to appoint one or more directors on the Board of its borrowing institutions in terms of relevant agreement which shall prevail over the provisions of the articles of association. The provisions of proposed new section also intend to extend statutory protection to such directors.

Clause 30 seeks to amend sub-section (2) of section 60 so as to provide for prescribing the manner of election of directors under clause (f) of sub section (1) of section 6. It also seeks to omit clauses (f) and (h) of sub-section (2) of section 60.

Clause 31 seeks to repeal the NABARD for Agriculture and Rural Development (Amendment) Ordinance, 2000.

FINANCIAL MEMORANDUM

Clause 4 seeks to amend section 4 of the principal Act so as to increase the ceiling of the capital of the National Bank for Agriculture and Rural Development from rupees five hundred crores to rupees five thousand crores. It seeks to provide that the capital of the said Bank can be subscribed by the Central Government and the Reserve Bank of India to such extent and in such proportion as may be notified by the Central Government in consultation with the Reserve Bank from time to time. It further proposes that the NABARD may issue capital to such institutions and persons in such manner as may be notified by the Central Government subject to the condition that combined shareholding of the Central Government and the Reserve Bank shall not at any time be less than fifty-one per cent. of the total subscribe capital.

2. In case of the capital of the NABARD is decided to be increased, a subscription to the share capital to the extent provided in the notification shall have to be made by the Central Government. The amount which the Central Government may require to subscribe under this clause is not possible to visualise at this stage.

3. The provisions of the Bill do not involve any other expenditure of recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to substitute sub-section (2) of section 4 of the principal Act so as to empower the National Bank for Agriculture and Rural Development to issue capital to such institutions and persons and in such manner as may be notified by the Central Government.

Clause 5 of the Bill seeks to substitute sub-sections (1) and (2) of section 6. Clause (f) of proposed new sub-section (1) provides for the election of directors of the Board by the registered shareholders. The Board is being empowered to prescribe the manner of election of such directors by regulations.

The aforesaid matters in respect of which rules or regulations may be made are matters of detail and it is not practicable to provide for all these matters in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

*Memorandum Explaining the Modifications contained in the
Bill to replace the National Bank for Agriculture and
Rural Development (Amendment) Ordinance, 2000*

Section 2 of the Ordinance has been further modified by empowering the Board to approve the terms and conditions on which the National Bank for Agriculture and Rural Development may issue and sell bonds, debentures and other financial instruments, instead of prescribing those terms and conditions by regulations.

2. Section 3 of the Ordinance, which is consequential in nature, has been omitted as the terms and conditions which were to be prescribed by regulations are now only required to be approved by the Board.

3. Other amendments to the National Bank for Agriculture and Rural Development Act, 1981 for which this comprehensive Bill is being introduced have been explained in the Notes on Clauses.

BILL NO. 209 OF 2000

A Bill further to amend the Water (Prevention and Control of Pollution) Cess Act, 1977.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Water (Prevention and Control of Pollution) Cess (Amendment) Act, 2000.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

36 of 1977.

2. In the Water (Prevention and Control of Pollution) Cess Act, 1977 (hereinafter referred to as the principal Act), in section 2, for clause (c), the following clause shall be substituted, namely:—

Amendment of section 2.

‘(c) “industry” includes any operation or process, or treatment and disposal system, which consumes water or gives rise to sewage effluent or trade effluent, but does not include any hydel power unit;’

3. In the principal Act, for the words “specified industry”, wherever they occur, the word “industry” shall be substituted.

Substitution of certain expression.

Substitution of new section for section 16.

Power of Central Government to exempt the levy of water cess.

4. For section 16 of the principal Act, the following section shall be substituted, namely:—

“16. (1) Notwithstanding anything contained in section 3, the Central Government may, by notification in the Official Gazette, exempt any industry, consuming water below the quantity specified in the notification, from the levy of water cess.

(2) In exempting an industry under sub-section (1), the Central Government shall take into consideration—

- (a) the nature of raw material used;
- (b) the nature of manufacturing process employed;
- (c) the nature of effluent generated;
- (d) the source of water extraction;
- (e) the nature of effluent receiving bodies; and
- (f) the production data, including water consumption per unit production,

in the industry and the location of the industry.”

Omission of Schedule I.

5. Schedule I to the principal Act shall be omitted.

Substitution of new Schedule for Schedule II.

6. For Schedule II to the principal Act, the following Schedule shall be substituted, namely:—

“SCHEDULE II
(See section 3)

Purpose for which water is consumed	Maximum rate under sub-section (2) of section 3	Maximum rate under sub-section (2A) of section 3
(1)	(2)	(3)
1. Industrial cooling, spraying in mine pits or boiler feeds	Five paise per kilolitre	Ten paise per kilolitre.
2. Domestic purpose	Two paise per kilolitre	Three paise per kilolitre.
3. Processing whereby water gets polluted and the pollutants are—	Ten paise per kilolitre	Twenty paise per kilolitre.
(i) easily biodegradable; or		
(ii) non-toxic; or		
(iii) both non-toxic and easily biodegradable		
4. Processing whereby water gets polluted and the pollutants are—	Fifteen paise per kilolitre	Thirty paise per kilolitre.”
(i) not easily biodegradable; or		
(ii) toxic; or		
(iii) both toxic and not easily biodegradable		

STATEMENT OF OBJECTS AND REASONS

The Water (Prevention and Control of Pollution) Cess Act, 1977 was enacted to provide for the levy and collection of cess on water consumed by industries and local authorities with a view to augmenting the resources of the Central and State Pollution Control Boards for the prevention and control of water pollution which were constituted under the Water (Prevention and Control of Pollution) Act, 1974. The existing rates of water cess were revised in 1991 because the responsibility and workload of the Pollution Control Boards expanded considerably with the rapid expansion of industrial and other economic activities causing pollution and affecting the environment. The present rates of water cess are inadequate for the purpose of meeting the financial requirements of the Central and State Pollution Control Boards. There is need for enhancing the resources of the Boards to enable their effective functioning for protecting and improving the environment. It is also expected that the rationalization of the cess rate structure will induce discipline and economy in the use of water.

2. Further, the State Boards are *inter alia* entrusted with various responsibilities including the enforcement of the Water (Prevention and Control of Pollution) Act, 1974. The responsibilities of the State Boards are expected to grow further as economic activities in the industrial and transportation sectors expand. Besides, it is necessary that the water cess rates should motivate consumers towards water conservation by making industries pay more for increased use of water. This is necessary because water is gradually becoming a scarce natural resource. Accordingly, the cess rates are being revised and the applicability of cess is being extended to all categories of industries, which consume water more than the prescribed minimum water quantity level and discharge sewage or trade effluents. However, cess is proposed to be abolished on the hydel power units.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 5th December, 2000.

T. R. BAALU.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 AND 274 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. 17(8)/95-PL, dated 7 December, 2000 from Shri T. R. Baalu, Minister of Environment and Forests to Secretary-General, Lok Sabha].

The President having been informed of the proposed Water (Prevention and Control of Pollution) Cess (Amendment) Bill, 2000 to augment the resources of the Pollution Control Boards and to encourage economy in the use and conservation of water, recommends its introduction under article 117(1) and 274(1) and consideration under article 117(3) of the Constitution in Lok Sabha.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the enhancement of water cess rates. The cess is collected by the State Pollution Control Boards and deposited in the Consolidated Fund of India and later it is disbursed to the Boards after appropriation made by Parliament in this behalf. There is no additional expenditure involved in the collection of the cess as the existing machinery that is the Boards would continue to collect the cess.

G. C. MALHOTRA,
Secretary-General.

